

1 **FEDERAL ELECTION COMMISSION**

2
3 **FIRST GENERAL COUNSEL'S REPORT**

4
5 MUR: 7314
6 COMPLAINT FILED: 01/24/2018
7 SUPP. COMPLAINT FILED: 06/22/2018
8 NOTIFICATIONS: 01/31/2018; 06/28/2018
9 LAST RESPONSE RECEIVED: 07/27/2018
10 DATE ACTIVATED: 01/25/2019

11
12 ELECTION CYCLE: 2016
13 EXPIRATION OF SOL: 01/01/2020 – 11/08/2021

14
15 **COMPLAINANT:**

15 Brad Woodhouse,
16 American Democracy Legal Fund

17
18 **RESPONDENTS:**

18 National Rifle Association of America
19 National Rifle Association Institute for
20 Legislative Action
21 Alexander Torshin
22 Maria Butina
23 Paul Erickson
24 Bridges, LLC

25
26 **RELEVANT STATUTE
27 AND REGULATION:**

26 52 U.S.C. § 30121
27 11 C.F.R. § 110.20

28
29 **INTERNAL REPORTS CHECKED:**

29 Disclosure Reports

30
31 **FEDERAL AGENCIES CHECKED:**

32
33 **I. INTRODUCTION**

34 The Complaint alleges that Alexander Torshin, Maria Butina, and Paul Erickson engaged
35 in a scheme to funnel millions of dollars in foreign money to the National Rifle Association of

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1 America ("NRA") and the National Rifle Association Institute for Legislative Action ("NRA-
2 ILA") for the purpose of financing independent expenditures in violation of the Federal Election
3 Campaign Act of 1971, as amended (the "Act").² In addition, the Complaint alleges that Torshin
4 and Butina, both of whom are foreign nationals, illegally participated in the decision-making
5 process of the NRA regarding its election-related activities. Finally, the Complaint alleges that
6 the NRA is liable for knowingly accepting the foreign money used to finance its election-related
7 activities, and for allowing Torshin and Butina to participate in the NRA's decision-making
8 process regarding its election-related activities.

9 Respondents deny the allegations.³ They argue that the Complaint is speculative and
10 does not point to any solid pieces of evidence that the alleged funneling and participation
11 occurred. The NRA submitted the results of an internal investigation, as well as an affidavit
12 signed by the officer in charge of the NRA's election-related activities who claims there was no
13 foreign participation with respect to the 2016 election. The NRA claims to have accepted only
14 one donation from Butina in the form of a \$520 purchase of jewelry at an NRA fundraising
15 auction in 2015, and to have collected \$1,000 from Torshin as payment for his lifetime NRA
16 membership dues in 2012. In addition, the NRA attests that it did not receive any funds from
17 Bridges, LLC, the domestic entity alleged to have funneled money from the Respondent foreign
18 nationals to the NRA.

² We notified both the NRA and NRA-ILA separately. But, as described below, the NRA-ILA is a division within the NRA and not a separate corporate entity (the NRA's general counsel provided one designation of counsel form in response to the notifications). Thus, unless otherwise indicated, any reference to the "NRA" in this Report includes the NRA-ILA. Moreover, because the NRA-ILA is not a distinct entity, our recommendations with respect to the "NRA" encompass the NRA-ILA for which we do not make separate recommendations.

³ The NRA submitted an initial response as well as two supplements, and Butina and Bridges, LLC jointly submitted an initial response and a short supplement. Torshin and Erickson did not file any response.

1 Although the activities at issue may have resulted in potential violations of statutes
2 outside the Commission's jurisdiction, as reflected by the criminal complaint brought by the
3 United States Attorney for the District of Columbia against Butina,⁴ the available information
4 does not support a finding of reason to believe with respect to the alleged violations of federal
5 campaign finance law. The allegations in the Complaint are premised on a vague news article
6 reporting that the Federal Bureau of Investigation ("FBI") is investigating whether Torshin may
7 have funneled money to the NRA, but without providing any specifics. The Complaint
8 assembles an assortment of circumstantial information showing that Butina and Torshin had
9 relationships with prominent NRA members, that Torshin reportedly made efforts to contact
10 2016 presidential candidate Donald J. Trump, and that a significant portion of the NRA's
11 election-related spending was not attributed to disclosed contributors, among other things. In
12 consideration of the Complaint and the available record, there is insufficient information in the
13 record before the Commission to support a reasonable inference that Torshin, Butina, Erickson,
14 or Bridges, LLC may have violated the Act's foreign national prohibition.

15 Under these circumstances, we recommend that the Commission dismiss the allegations
16 that Torshin and Butina violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(b) by directly or
17 indirectly making foreign national contributions or donations; dismiss the allegations that
18 Erickson and Bridges, LLC violated 11 C.F.R. § 110.20(h) by knowingly providing substantial
19 assistance in the making or receipt of a prohibited foreign national contribution or donation; and

⁴ On July 14, 2018, the United States Attorney for the District of Columbia filed a criminal complaint against Butina for conspiracy to act as an agent of a foreign government. *Infra* notes 44-46 and accompanying text. On December 6, 2018, Butina pled guilty to the charges and admitted that her objective was to establish unofficial lines of communication with Americans having power and influence over United States politics. On February 5, 2019, Erickson was indicted by the United States Attorney for the District of South Dakota in connection with an alleged investment scheme apparently unrelated to the activities at issue in this matter. *Infra* note 48.

1 dismiss the allegation that the NRA violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g) by
2 knowingly soliciting, accepting, or receiving a prohibited foreign national contribution or
3 donation in connection with an election. In addition, although Torshin and Butina appear to have
4 purposefully developed significant contacts with top NRA officials, the alleged facts fail to
5 support a reasonable inference that they directly or indirectly participated in the NRA's decision-
6 making process regarding its election-related activities. We therefore recommend that the
7 Commission dismiss the allegations that Torshin and Butina violated 11 C.F.R. § 110.20(i).

8 II. FACTUAL BACKGROUND

9 A. NRA

10 1. Structure

11 The NRA is a nonprofit corporation organized under section 501(c)(4) of the Internal
12 Revenue Code, self-described as “a major political force and as America’s foremost defender of
13 Second Amendment rights.”⁵ During the 2016 election cycle, David Keene (a former president
14 of the NRA) and Pete Brownell were NRA board members.⁶ Brownell, during that time period,
15 also served as Second Vice President and then as First Vice President.⁷

16 The NRA-ILA is the division within the NRA “primarily responsible for the NRA’s . . .
17 legislative and political activities.”⁸ The NRA Political Victory Fund (“NRA-PVF”) is the
18 NRA’s separate segregated fund registered as a political committee.⁹ The NRA represents that,

⁵ Compl. at 2 (Jan. 24, 2018); *id.*, Ex. A (NRA, 2015 IRS Form 990); NRA | ABOUT THE NRA, <https://home.nra.org/about-the-nra> (cited by Compl. at 2) (accessed Apr. 16, 2019); NRA Resp. at 2 (Mar. 19, 2018).

⁶ NRA Resp. at 2; *id.*, Ex. C ¶ 10 (Affidavit of Chris Cox, Executive Director of the NRA-ILA).

⁷ Cox Aff. ¶ 10.

⁸ NRA Resp. at 2; *see* Cox Aff. ¶¶ 1, 3; Compl., Ex. A at 2 (NRA, 2015 IRS Form 990).

⁹ NRA Resp. at 2; Cox Aff. ¶ 4; NRA-PVF, Statement of Organization (Sept. 5, 2018).

1 under its *de facto* policy regarding election-related activities, “decisions concerning intervention
2 in federal, state, or local elections . . . normally are made and executed by ILA and/or PVF.”¹⁰
3 The process is “carried out by NRA-ILA Executive Director Chris Cox (who is also the
4 chairman of NRA-PVF) and the trustees of NRA-PVF as well as the NRA-ILA professional
5 staff, in consultation with NRA Executive President Wayne LaPierre.”¹¹ All of those people are
6 U.S. citizens.¹² The NRA represents that its bylaws do not grant individual board members, the
7 president, or vice presidents excluding the Executive Vice President, any formal role in election-
8 related decisions.¹³ However, NRA leadership “may sometimes provide their personal input on
9 such matters.”¹⁴

10 2. Political Activities of the NRA in Connection With the 2016 Election

11 During the 2016 election cycle, the NRA, NRA-ILA, and NRA-PVF reported spending
12 \$54.4 million in connection with federal elections, according to filings with the Commission, as
13 compared to the group’s reported spending of \$19.8 million during the 2012 election cycle.¹⁵
14 The Complaint points to this increase and specifically focuses on \$33.3 million the NRA and
15 NRA-ILA reported spending during the 2016 cycle for independent expenditures.¹⁶ The NRA is

¹⁰ Cox Aff. ¶ 5.

¹¹ NRA Resp. at 4; *see* Cox Aff. ¶ 6.

¹² NRA Resp. at 4.

¹³ Cox Aff. ¶ 8. The NRA did not attach the bylaws (or relevant portions thereof) to its Response.

¹⁴ NRA Resp. at 4.

¹⁵ NRA Outside Spending Summary 2012, 2016, OPENSECRETS.ORG, *available at* [https://www.opensecrets.org/outsidespending/detail.php?cycle=\[2012/2016\]&cmte=National+Rifle+Assn](https://www.opensecrets.org/outsidespending/detail.php?cycle=[2012/2016]&cmte=National+Rifle+Assn) (accessed Apr. 12, 2019) (cited by Compl. at 2 n.6). In 2016, the NRA spent a combined \$31.2 million in direct support of Trump and in opposition to Trump’s general election opponent, Hillary R. Clinton. *Id.* The figures cited by the Complaint include spending for independent expenditures and communication costs, but apparently do not include contributions made by the NRA-PVF to candidates and political committees.

¹⁶ NRA Institute for Legislative Action Outside Spending Summary 2016, OPENSECRETS.ORG, *available at* <https://www.opensecrets.org/outsidespending/detail.php?cmte=C90013301&cycle=2016> (accessed Apr. 18, 2019); Compl. at 2, 7; *see also* Resp. at 2 (confirming the \$33.3 million figure).

1 a 501(c)(4) and did not publicly disclose its donors with respect to this spending.¹⁷ The
2 Complaint argues that the lack of disclosure is “problematic” and provides the “opportunit[y] to
3 funnel foreign funds.”¹⁸

4 **B. Connections Between the NRA and Russian Foreign Nationals**

5 Alexander Torshin, a Russian national who formerly served as a member of the
6 Federation Council of Russia, which is the upper house of the Russian legislature, and as Deputy
7 Governor of Russia’s Central Bank, is a lifetime NRA member and is reportedly “known for his
8 close relationships with both Russian President Vladimir Putin and the NRA.”¹⁹ On April 6,
9 2018, Torshin’s name was included on a list of foreign nationals sanctioned by the United States
10 Department of the Treasury, “in response to the totality of the Russian government’s ongoing
11 and increasingly brazen pattern of malign activity around the world,” according to a department
12 official.²⁰ Torshin, based on a review of his social media postings, has attended every NRA
13 convention between 2012 and 2016, and personally met with every person who has been
14 president of the NRA during that period of time.²¹

¹⁷ Compl. at 2 (citing to General Instructions for Schedule B, Form 990).

¹⁸ *Id.* at 7-8. The activities in this matter pre-date the opinion by the District Court for the District of Columbia in *CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018). See Press Release, *FEC Provides Guidance Following U.S. District Court Decision in CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018) (Oct. 4, 2018), available at <https://www.fec.gov/updates/fec-provides-guidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/> (explaining the Commission’s approach to reporting of independent expenditures by persons other than political committees made on or after September 18, 2018).

¹⁹ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, MCCLATCHY, Jan. 18, 2018 (cited by Compl. at 2 n.5).

²⁰ Press Release, U.S. Dep’t of the Treasury, *Treasury Designates Russian Oligarchs, Officials, and Entities in Response to Worldwide Malign Activity*, Apr. 6, 2018; Gordon, et al., *Sanctioned Russians Include Dossier Figure and Banker Linked to NRA*, MCCLATCHY, Apr. 6, 2018 (cited by Supp. Compl. at 4 n.15 (June 22, 2018)); see Cristina Maza, *Trump Sanctions Russian Oligarchs, Including Men Linked to Russia Investigation*, NEWSWEEK, Apr. 6, 2018 (cited by Supp. Compl. at 4 n.14).

²¹ Tim Mak, *Depth of Russian Politician’s Cultivation of NRA Ties Revealed*, NPR, Mar. 1, 2018 (cited by Compl. at 3 n.6); see Rosalind Helderman & Tom Hamburger, *Guns and Religion: How American Conservatives Grew Closer to Putin’s Russia*, WASH. POST, Apr. 30, 2017 (cited by Compl. at 3 n.9); NRA Resp. at 2.

1 Maria Butina, a Russian national who apparently traveled to the United States during the
2 2016 election cycle and enrolled in an American university, is also a member of the NRA and
3 attended NRA meetings or events in the United States and Russia.²² Butina has been described
4 in media reports as Torshin's "protégé."²³ Together, Torshin and Butina created and operated a
5 gun rights group similar to the NRA in Russia called the Right to Bear Arms.²⁴

6 Paul Erickson, identified as a "conservative operative" and "veteran GOP consultant,"
7 reportedly developed a relationship with Butina through the NRA and Right to Bear Arms.²⁵
8 According to at least one news source, Erickson may have served as an adviser to the Trump
9 transition team.²⁶ During the 2016 election cycle, according to the NRA, "Erickson had no
10 formal role" with the NRA and was not an official NRA member because his membership had
11 expired.²⁷ Previously, Erickson had "occasionally performed consulting and event planning
12 services for the NRA," but the NRA states that his last invoice dates back to April 2014 for
13 expenses incurred in 2013.²⁸ Butina and Erickson, in 2016, incorporated Bridges, LLC.²⁹

²² Butina & Bridges, LLC Joint Resp. at 1 (Mar. 12, 2018); NRA Resp. at 2.

²³ E.g., Michelle Goldberg, *Is This the Collusion We Were Waiting For?*, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12).

²⁴ Nicholas Fandos, *Operative Offered Trump Campaign 'Kremlin Connection' Using NRA Ties*, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14); Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12); see Butina & Bridges, LLC Resp. at 1 (Mar. 12, 2018); NRA Resp. at 2.

²⁵ Fandos, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14); Michael Isikoff, *White House Pulled Out of Meet and Greet with "Conservatives' Favorite Russian" Over Suspected Mob Ties*, YAHOO NEWS, Apr. 2, 2017 (cited by Compl. at 3 n.12); Seth Tupper, *Timeline: The Life of Paul Erickson*, RAPID CITY J., Feb. 11, 2018 (cited by NRA Resp. at 10 n.46).

²⁶ Isikoff, YAHOO NEWS, Apr. 2, 2017 (cited by Compl. at 3 n.12).

²⁷ NRA Resp. at 4.

²⁸ *Id.*

²⁹ Bridges, LLC, Certification of Organization (S.D. Sec. of State) (Feb. 10, 2016); Compl. at 3.

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1 Erickson reportedly stated that the LLC was for Butina's tuition.³⁰ In her Response, Butina
2 maintains that the LLC was "set up to pay for certain educational expenses."³¹ The Complaint
3 suggests this is "an unusual way to use an LLC," and alleges that Bridges, LLC was actually
4 created to function as an intermediary to funnel money from Torshin or Butina to the NRA.³²

5 In 2015, Torshin and Butina hosted a "luxurious trip to Russia" for NRA leaders and top-
6 level donors.³³ Among those in attendance were Keene and Brownell who, as noted above, were
7 NRA board members at the time of the Russia trip.³⁴ The NRA, in its Response, acknowledges
8 that Keene was "acquainted" with both Torshin and Butina, and that Keene attended Right to
9 Bear Arms events in Russia, including being invited to speak at an event in 2013.³⁵ Moreover, at
10 the 2016 NRA annual convention in Louisville, Kentucky — at which the NRA endorsed Trump

³⁰ Peter Stone & Greg Gordon, *Lawyer Who Worked for NRA Said to have had Concerns About Group's Russia Ties*, MCCLATCHY, Mar. 15, 2018 (cited by Supp. Compl. at 3 n.5); see Butina & Bridges, LLC Resp. at 1.

³¹ Butina & Bridges, LLC Resp. at 1. *But see* Sentencing Memorandum on Behalf of Maria Butina at 8, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Apr. 19, 2019) (describing Bridges, LLC as a "single-member" LLC so named because of Butina's "wish to be a bridge between Russia and America," and reporting that through Bridges, LLC, Butina "scored a consulting contract with the Outdoor Channel to develop a television show in Russia featuring President Putin and his love of the outdoors," but that the project quickly ended when Butina could not produce Putin).

³² Compl. at 8; see Stone & Gordon, MCCLATCHY, Mar. 15, 2018 (cited by Supp. Compl. at 3 n.5); Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12). The Complaint, pointing to money laundering allegations against Torshin by Spanish officials, asserts that "this would not be the first time Mr. Torshin or those associated with him were accused of funneling money illegally." Compl. at 8 (citing Esteban Duarte, *et al.*, *Mobster or Central Banker? Spanish Cops Allege This Russian Both*, BLOOMBERG NEWS, Aug. 9, 2016).

³³ Compl. at 3 (citing Goldberg, N.Y. TIMES, Jan. 19, 2018; Helderman & Hamburger, WASH. POST, Apr. 30, 2017). The Complaint also cites to news articles reporting contacts between NRA officials and other foreign nationals linked with the Russian government. Supp. Compl. at 2 (citing Allegra Kirkland, *NRA Still Not Talking Amid New Reports of Contacts with Putin Allies*, TALKING POINTS MEMO, June 11, 2018; Peter Stone & Greg Gordon, *Web of Elite Russians Met with NRA Execs During 2016 Campaign*, MCCLATCHY, June 11, 2018). The other foreign nationals include Dmitry Rogozin, the deputy prime minister in charge of Russia's defense industry.

³⁴ NRA Resp. at 3; see also *id.* at 3 n.9 ("Other than Keene and Brownell, none of [those attending the Russia trip] were directors, officers, employees, contractors, or agents of the NRA at the time of the visit. Some were and are substantial donors to the NRA who also have been active in supporting NRA fundraising efforts, and who have been given honorific titles as a result of those activities.").

³⁵ *Id.* at 2-3; see also *id.* at 3 (explaining that Keene was also an "acquaintance" of Erickson).

1 for president — Torshin and Butina were members of Keene's dinner party.³⁶ According to a
2 statement provided by the NRA's Chief Financial Officer, Keene's dinner party shared a brief
3 interaction with Donald Trump, Jr., who attended the convention.³⁷ The Complaint asserts that
4 Torshin and Butina, by "gaining unfettered access to NRA donors and leaders" participated in
5 the NRA's decision-making process regarding its election-related activities, "certainly indirectly
6 if not directly."³⁸

7 In the lead-up to the 2016 presidential election and shortly thereafter, Erikson and
8 Torshin reportedly made attempts to contact Trump in order to advance Russian interests. In
9 May 2016, Erickson reportedly sent an email to an adviser to the Trump campaign, that Russia
10 was "quietly but actively seeking a dialogue with the U.S.," and planned to use the NRA's 2016
11 annual convention in Louisville, Kentucky to make "first contact."³⁹ In June 2016, another
12 conservative activist reportedly sent an email to the same Trump campaign adviser, proposing a
13 backchannel meeting between Torshin and Trump.⁴⁰ The available news reports do not indicate
14 how the Trump campaign responded to the first request, but report that the campaign specifically
15 rebuffed the second request.⁴¹

³⁶ *Id.* at 3; *id.*, Ex. A ¶¶ 17-18 (Affidavit of Wilson H. Phillips, Jr., Treasurer and Chief Financial Officer of the NRA); *see also* NRA Second Supp. Resp. at 7 (July 27, 2018) (stating that it is "regrettable" Torshin and Butina ever attended NRA events or met with NRA officers).

³⁷ Phillips, Jr. Aff. ¶ 19.

³⁸ Compl. at 8.

³⁹ Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12); Fandos, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14). It is not entirely clear, from the information in the news articles, whether Erickson allegedly sent the emails on behalf of Torshin or some other representative of the Russian government.

⁴⁰ Sam Thielman, *NRA's Ties to Putin Allies go Back Years*, TALKING POINTS MEMO, Jan. 19, 2018 (cited by Compl. at 4 n.20).

⁴¹ Compl. at 4; *see* Fandos, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14); Thielman, TALKING POINTS MEMO (cited by Compl. at 4 n.20).

1 In February 2017, Torshin was scheduled to attend a “meet and greet” with President
2 Trump at the National Prayer Breakfast, but it was reportedly canceled following the discovery
3 of allegations by the Spanish Civil Guard that Torshin had been involved in a money laundering
4 conspiracy.⁴² The Complaint highlights these instances, in addition to the sanctions against
5 Torshin by the Department of the Treasury mentioned above, as evidence that Torshin was
6 interested in the outcome of the 2016 election and in supporting Trump for president.⁴³

7 In December 2018, Butina pled guilty to conspiracy to violate 18 U.S.C. § 951, which
8 requires certain agents of foreign governments operating within the United States to notify the
9 United States Attorney General.⁴⁴ In the Statement of the Offense, Butina admitted taking orders
10 from a “Russian Official” and that her primary objective was to “establish unofficial lines of
11 communication with Americans having power and influence over U.S. politics.”⁴⁵ Butina
12 explained that “Gun Rights Organization” had “influence over Political Party #1,” and by
13 attending its conferences, in addition to other activities, she had “laid the groundwork for an
14 unofficial channel of communication with the next U.S. administration.”⁴⁶ Butina admitted that
15 a trip to Russia by powerful “Gun Rights Organization” members in December 2015 was part of
16 her operation, and that she advised a Russian Official: “We should let them express their

⁴² Isikoff, YAHOO NEWS, Apr. 2, 2017 (cited by Compl. at 3 n.12); see Duarte, et al., BLOOMBERG NEWS, Aug. 9, 2016 (cited by Compl. at 4 n.19). A White House official reportedly stated that the meeting had never been confirmed. Helderman & Hamburger, WASH. POST, Apr. 30, 2017 (cited by Compl. at 3 n.9).

⁴³ Compl. at 7; Supp. Compl. at 7.

⁴⁴ Plea Agreement at 1, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018); see also Criminal Complaint, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. July 14, 2018). The documents filed by the United States Attorney for the District of Columbia use an alternate spelling of Maria (Butina apparently uses both spellings). On February 5, 2019, Erickson was charged with wire fraud and money laundering by the United States Attorney for the District of South Dakota. *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Feb. 5, 2019). The facts of that case appear to be unrelated to the 2016 election and the instant matter.

⁴⁵ Statement of Offense at 2, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018) (document forming the factual basis of Butina’s guilty plea).

⁴⁶ *Id.* at 2-3.

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1 gratitude now, we will put pressure on them quietly later.”⁴⁷ Neither the plea documents nor the
2 criminal complaint mention any potential violations of federal campaign finance law or
3 otherwise refer to a scheme to funnel donations.⁴⁸

4 **C. Inquiries into the NRA’s Contacts with Russians**

5 The allegations in the Complaint are based primarily on a January 18, 2018, *McClatchy*
6 news article, which reported that the “FBI is investigating whether a top Russian banker with ties
7 to the Kremlin [Torshin] illegally funneled money to the [NRA] to help Donald Trump win the
8 presidency.”⁴⁹ However, the article noted that it is “unclear how long the Torshin inquiry has
9 been ongoing,” and the “extent to which the FBI has evidence of money flowing from Torshin to
10 the NRA, or of the NRA’s participation in the transfer of funds, could not be learned.”⁵⁰

11 At a public hearing before the House Intelligence Committee, Glenn Simpson, a former
12 investigative journalist and co-founder of Fusion GPS, referring to Torshin and Butina, testified
13 that “it appears the Russians . . . infiltrated the NRA.”⁵¹ Adam Schiff, then Ranking Member of
14 the House Intelligence Committee, reportedly stated that: “The issue of whether there was an

⁴⁷ *Id.* at 3-4. Butina’s American contact, identified as “U.S. Person 1” provided her with background information on the invitees. *Id.* at 3.

⁴⁸ *But see* Affidavit in Support of an Application for a Criminal Complaint ¶ 18, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. July 14, 2018) (quoting an email that Butina sent to an associate identifying “Gun Rights Organization” as the “largest sponsor of the elections to the US congress, as well as a sponsor of The CPAC conference and other events”).

⁴⁹ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, *MCCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5); *see also* Lois Beckett, *FBI Investigates Whether Russia Banker Used NRA to Fund Trump Campaign – Report*, *THE GUARDIAN*, Jan. 18, 2018 (cited by Compl. at 3 n.8) (reporting on the allegations presented by the *McClatchy* article).

⁵⁰ Stone & Gordon, *MCCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5).

⁵¹ U.S. House of Representatives Permanent Select Committee on Intelligence, Interview of Glenn Simpson at 142-43 (Nov. 14, 2017), *available at* <http://docs.house.gov/meetings/IG/IG00/20180118/106796/HMTG-115-IG00-20180118-SD002.pdf> (stating that “we spent a lot of time investigating Mr. Torshin”). Simpson’s testimony regarding Torshin and Butina does not provide any specific information underlying the basis for his conclusions.

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1 effort to . . . provide funding through the NRA, has been an issue of concern for the committee,
2 and something we've endeavored to look into."⁵²

3 A report with preliminary findings on Russian activities in the 2016 election, published
4 by Diane Feinstein, Ranking Member of the Senate Judiciary Committee, along with Minority
5 members of the committee, states: "The Kremlin may also have used the NRA to secretly fund
6 Mr. Trump's Campaign. The extent of Russia's use of the NRA as an avenue for connecting
7 with and potentially supporting the Trump campaign needs examination."⁵³ The only evidence
8 cited by the report with respect to this claim is the same *McClatchy* news article on which the
9 Complaint relies.⁵⁴

10 According to unidentified sources, Cleta Mitchell, an attorney and former NRA board
11 member, reportedly expressed "concerns" regarding the NRA's ties with Russia and "possible
12 involvement in channeling Russian funds into the 2016 election[] to help Donald Trump."⁵⁵ The
13 news article at issue contains a quote from Mitchell denying ever having such concerns, and she
14 submitted an affidavit to that effect on the record in this matter.⁵⁶ The Complaint cites to the
15 quotation in the article, and the above statements by other third parties, as additional evidence
16 supporting the possible existence of the alleged scheme to funnel money to the NRA.⁵⁷

⁵² Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12).
⁵³ Dianne Feinstein, et al., *Preliminary Findings About Trump Campaign's Effort to Obtain Incriminating Information on Secretary Clinton from Russia at Trump Tower Meeting* at 21 (May 16, 2018) (cited by Supp. Compl. at 4 n.12).
⁵⁴ *Id.* at 21 n.128; see NRA Second Supp. Resp. at 2-3.
⁵⁵ Stone & Gordon, MCCLATCHY, Mar. 15, 2018 (cited by Supp. Compl. at 3 n.5).
⁵⁶ *Id.*; NRA Second Supp. Resp., Ex. A ¶¶ 9-11 (Affidavit of Cleta Mitchell).
⁵⁷ See Compl. 7-8; Supp. Compl. at 8.

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1 On May 3, 2018, Ranking Member of the Senate Finance Committee Ron Wyden, who
2 conducted a separate inquiry into the NRA's alleged links with Torshin, sent his correspondence
3 with the NRA to the Commission, specifically referencing this matter, which has been reported
4 by the media.⁵⁸ The materials, which are publicly available, include letters with questions about
5 the NRA's election-related activities and the NRA's responses to those letters. In the NRA's
6 initial response to Sen. Wyden's inquiry, on February 15, 2018, it stated that there "has been no
7 contact between the FBI and the NRA," and asserted that the author of the *McClatchy* article told
8 the NRA that only Torshin was under investigation by the FBI.⁵⁹

9 **D. NRA's Internal Investigation**

10 **1. Financial Activities**

11 The NRA submitted the results of an internal review of its financial activities, supported
12 by affidavits from the Treasurer/Chief Financial Officer of the NRA and Fiscal Officer of the
13 NRA-ILA, which maintains and controls a separate account.⁶⁰ The NRA states that it reviewed
14 all donors whose donations to the NRA during calendar year 2015 or 2016 aggregated \$5,000 or
15 more, and that the NRA-ILA reviewed all donors whose donations to the NRA-ILA during
16 calendar year 2015 or 2016 aggregated \$1,000 or more.⁶¹ According to the NRA, none of the

⁵⁸ Letter from Ron Wyden, Ranking Member of the Senate Finance Committee, to Caroline C. Hunter, FEC, Chair, Ellen L. Weintraub, FEC, Vice Chair (May 3, 2018) (explaining that, in February of 2018, Wyden "initiated an inquiry into the National Rifle Association's (NRA's) campaign finance practices following press reports that raised questions about the organization's relationship with certain Russian actors"); see Josh Meyer, *FEC Probes Whether NRA Got Illegal Russian Donations*, POLITICO, Mar. 16, 2018. Following Butina's criminal complaint, Sen. Wyden sent the Commission a follow-up letter, urging it to issue a decision on whether to investigate. Letter from Ranking Member Wyden to Chair Hunter and Vice Chair Weintraub (July 31, 2018).

⁵⁹ Letter from John C. Frazer, NRA, Secretary and General Counsel to Ron Wyden, Ranking Member of the Senate Finance Committee (Feb. 15, 2018).

⁶⁰ NRA Resp., Ex. A (Affidavit of Wilson H. Phillips, Jr., Treasurer and Chief Financial Officer of the NRA); Ex. B (Affidavit of Mary Rose Adkins, Fiscal Officer of the NRA-ILA).

⁶¹ Phillips, Jr. Aff. ¶ 7 (explaining that this amount was chosen "because information is collected and retained on those donors as a routine matter"); Adkins Aff. ¶ 5.

1 examined donors listed an address outside the United States, and there was no record or
2 recollection of any such donation being made via a foreign check or wire transfer drawn on a
3 foreign bank.⁶² Further, the NRA states that NRA and NRA-ILA records indicate there was no
4 donation in any amount from Butina, Torshin, Erickson, Bridges, LLC, the Central Bank of
5 Russia, or Dmitry Rogozin (another Russian apparently linked with the NRA), with one
6 exception.⁶³ In 2015, Butina purchased jewelry for \$520 (not including \$48.10 in taxes) at a
7 fundraising auction, which, according to the Response, resulted in a contribution to the NRA's
8 "general fund."⁶⁴

9 The NRA later submitted a supplement to the initial Response, providing the results of a
10 more in-depth review of its financial records.⁶⁵ The updated results, however, were not
11 accompanied by affidavits. The NRA stated that it expanded its review so that it was no longer
12 limited by dollar thresholds and the time period was extended from January 1, 2015, through
13 March 31, 2018.⁶⁶ The NRA represents that it uncovered an additional donation of \$5 from an
14 "individual who may be a U.S. national living in Russia."⁶⁷ Further, the NRA stated that, during
15 this period, it received an aggregate of \$1,993 in membership dues and magazine subscriptions
16 from approximately 23 NRA members associated with addresses in Russia.⁶⁸ In addition, the

⁶² Phillips, Jr. Aff. ¶¶ 9-11; Adkins Aff. ¶¶ 8-10 (explaining that it would be "onerous and time-consuming" to review every donation, but that neither the Fiscal Officer nor her staff have any recollection of a donation being made via a foreign check or wire transfer drawn on a foreign bank).

⁶³ Phillips, Jr. Aff. ¶ 12; Adkins Aff. ¶ 12; *see supra* note 33.

⁶⁴ Phillips, Jr. Aff. ¶ 13; NRA Resp. at 9.

⁶⁵ NRA First Supp. Resp. at 1 (Apr. 13, 2018).

⁶⁶ *Id.* The Complaint contends that the NRA "reported inconsistent numbers" regarding foreign donations in its public statements. Supp. Compl. at 5-6, 8-9. But the NRA explains that the figures changed when it expanded the scope of its investigation to remove dollar thresholds, increased the timeframe, and included dues/subscriptions as well as donations. NRA First Supp. Resp. at 1-2; NRA Second Supp. Resp. at 7.

⁶⁷ NRA First Supp. Resp. at 1.

⁶⁸ *Id.* at 1-2.

1 NRA explained that Torshin purchased his lifetime NRA membership in 2012 for \$1,000 and
2 made no other donations or contributions.⁶⁹

3 2. Election-Related Activities

4 The NRA also submitted an affidavit from Chris W. Cox, the Executive Director of the
5 NRA-ILA and Chairman of the NRA-PVF.⁷⁰ Cox represented that he is “personally involved in,
6 intimately familiar with, and ultimately responsible for NRA’s decision making concerning [its
7 election-related activities].”⁷¹ He attests that with respect to 2016 elections, “no foreign national
8 participated in” the NRA’s decision-making process.⁷² Moreover, Cox states that neither Keene
9 nor Brownell, the two NRA board members with apparent links to Torshin and Butina described
10 above, individually participated in the NRA’s decision-making process and that the NRA board
11 did not formulate any policy regarding 2016 elections.⁷³ Finally, Cox attests that none of the
12 NRA members who attended the 2015 trip to Russia organized by Torshin and Butina
13 participated in the NRA’s decision-making process regarding its election-related activities.⁷⁴

14 **III. LEGAL ANALYSIS**

15 **A. Relevant Law**

16 The Act and Commission regulations provide that a foreign national shall not “directly or
17 indirectly” make: a contribution or donation (or an express or implied promise thereof) in

⁶⁹ *Id.* at 2 n.2.

⁷⁰ NRA Resp., Ex. C (Affidavit of Chris W. Cox).

⁷¹ *Id.* ¶ 6. Cox explained that these election-related activities include “decisions about which candidates to endorse or support, and decisions concerning the making of expenditures and disbursements for candidate endorsements, independent expenditures, electioneering communications, express advocacy member communications, non-reportable field operations and Internet advertising, and candidate contributions.” *Id.* ¶ 5.

⁷² *Id.* ¶ 7.

⁷³ *Id.* ¶¶ 9, 11.

⁷⁴ *Id.* ¶ 12.

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1 connection with any federal, state, or local election; a disbursement for an electioneering
2 communication; or an expenditure, independent expenditure, or disbursement in connection with
3 any federal, state, or local election.⁷⁵ The term "foreign national" includes an individual who is
4 not a citizen of the United States or national of the United States and who is not lawfully
5 admitted for permanent residence, as well as a government of a foreign country.⁷⁶

6 No person shall knowingly solicit, accept, or receive a prohibited foreign national
7 contribution or donation.⁷⁷ The term "knowingly" is defined as having "actual knowledge" that
8 the source is a foreign national, or being aware of "facts that would lead a reasonable person to
9 conclude that there is a substantial probability that" or "facts that would lead a reasonable person
10 to inquire whether" the source is a foreign national.⁷⁸

11 Commission regulations provide that no person shall "knowingly provide substantial
12 assistance" in the solicitation, making, acceptance, or receipt of a prohibited foreign national
13 contribution or donation, or the making of a prohibited foreign national expenditure, independent
14 expenditure, or disbursement.⁷⁹ Commission regulations also provide that a foreign national
15 shall not "directly or indirectly participate in the decision-making process of any person . . . with
16 regard to such person's Federal or non-Federal election-related activities," such as decisions

⁷⁵ 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(b), (e)-(f).

⁷⁶ 52 U.S.C. § 30121(b) (citing to 22 U.S.C. § 611(b)); 11 C.F.R. § 110.20(a)(3) (same).

⁷⁷ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

⁷⁸ 11 C.F.R. § 110.20(a)(4); *see also id.* § 110.20(a)(5) (providing that "pertinent facts" include, but are not limited to, the use of a foreign passport for identification purposes, use of a foreign address, and use of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank).

⁷⁹ 11 C.F.R. § 110.20(h). The Commission has explained that substantial assistance "means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction." Explanation & Justification, Assisting Foreign National Contributions or Donations, 67 Fed. Reg. 66928, 66945 (Nov. 19, 2002). Moreover, substantial assistance "covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations." *Id.* at 66946.

1 concerning the making of contributions, donations, expenditures, or disbursements in connection
2 with a federal, state, or local election.”⁸⁰

3 **B. There is Insufficient Information to Support a Reasonable Inference that**
4 **Respondents Violated the Foreign National Prohibition**

5 1. Alleged Contributions Made by Torshin and/or Butina

6 There is no specific information in the record before the Commission indicating that the
7 Respondent foreign nationals provided the NRA with funds for the purpose of financing the
8 NRA’s independent expenditures or other election-related activities. Though the *McClatchy*
9 news article reports on the FBI’s alleged investigation of the existence of a scheme in which
10 Torshin funneled money to the NRA, it describes the scheme in the broadest possible terms. The
11 additional information provided by the Complaint does little to corroborate or provide a
12 sufficient factual basis to infer that the alleged prohibited contributions occurred.

13 The allegations are premised on a news article reporting that the FBI is investigating
14 Torshin for potentially funneling money to the NRA. The article cites to unnamed sources and
15 does not provide specific information, disclaiming that the “extent to which the FBI has evidence
16 of money flowing from Torshin to the NRA, or of the NRA’s participation in the transfer of
17 funds, could not be learned.”⁸¹ Other than this news article, which is the only piece of
18 information directly alleging that there was a conspiracy to funnel foreign money to the NRA,
19 the Complaint marshals a variety of circumstantial evidence, *e.g.*, “ties” between Torshin,
20 Butina, and the NRA; attempts by Torshin to contact Trump; an increase in NRA political
21 spending in the 2016 cycle; the fact that much of the NRA’s political spending was not

⁸⁰ 11 C.F.R. § 110.20(i).

⁸¹ Stone & Gordon, *MCCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5).

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1 disclosed; and the creation of an LLC by Butina and Erickson. The Complaint seeks to show
2 that Torshin and Butina may have had a motive to influence the election and develop access to
3 prominent NRA members, among other things. But none of the additional information provided
4 by the Complaint, even when considered as a whole, is indicative or suggestive of a scheme to
5 funnel foreign money to the NRA. Thus, the Complaint and current record do not provide a
6 sufficient factual basis to infer that the alleged violations occurred. Indeed, the Complaint
7 appears to acknowledge that this information, at best, suggests that Torshin and Butina had
8 "opportunities" to violate the foreign national prohibition.⁸²

9 The NRA submitted the results of an internal review, which did not identify substantial
10 foreign donations. The NRA claims to have accepted one contribution from Butina in the form
11 of a \$520 purchase at an NRA fundraising auction in 2015, and to have collected \$1,000 from
12 Torshin as payment for lifetime membership dues in 2012. And the NRA claims not to have
13 received any donations from Bridges, LLC, the domestic entity alleged by the Complaint to have
14 funneled foreign money to the NRA. The NRA asserts that, as a domestic corporation, it is
15 permitted to accept donations to its general fund from foreign nationals "provided that the money
16 is not solicited or accepted for use in connection with an election, and that no foreign national
17 controls or participates in the making of election-related expenditures."⁸³ As discussed below,
18 the record before the Commission does not indicate that foreign nationals participated in any
19 such decision-making.

⁸² Compl. at 8.

⁸³ NRA Resp. at 6 (citing Advisory Op. 1992-16 (Nansay Hawaii, Inc.)) ("AO"); *see also* NRA First Supp. Resp at 2 n.3 (citing AO 1981-36 (Japan Business Ass'n of S. Cal.)).

1 In prior matters involving alleged conduit contributions or funneling of money through an
2 intermediary, the Commission has required more specific information than what is available on
3 the current record to justify a reason to believe finding.⁸⁴ In MUR 7091 (Friends of Patrick
4 Murphy, *et al.*), for instance, the Commission found no reason to believe with respect to
5 allegations of conduit contributions on a record based primarily on relationships between the
6 named contributors and the timing of when the contributions were made.⁸⁵ In MUR 6246
7 (Brennan, *et al.*), the Commission found no reason to believe, despite circumstances that raised
8 questions as to whether a conduit contribution scheme occurred, given "the lack of specific
9 information" that, if true, would support the inference, as well the sworn denials from the
10 respondents and representations of counsel following an internal investigation.⁸⁶ By contrast, in
11 matters where the Commission has found reason to believe, the record involved more specific
12 facts, suggestive of an impermissible conduit scheme.⁸⁷ In MURs 4530, 4531, and 4547 (DNC
13 Services Corp., *et al.*), the Commission found reason to believe with respect to multiple conduit
14 contribution and foreign national contribution allegations, based primarily on detailed analyses
15 of the alleged scheme presented in several news articles.⁸⁸

⁸⁴ The Commission's stated policy regarding matters at the initial stage in the enforcement process is that a reason to believe finding is appropriate "when a complaint credibly alleges that a significant violation may have occurred." See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007).

⁸⁵ Factual & Legal Analysis at 2, 4, MUR 7091 (Friends of Patrick Murphy, *et al.*). The Commission also found that the applicable statute of limitations had expired on all of the alleged activity. *Id.* at 4.

⁸⁶ Factual & Legal Analysis at 5-7, MUR 6246 (Brennan, *et al.*). The MUR 6246 complaint inferred that Brennan reimbursed contributions because he allegedly offered to reimburse the complainant, allegedly telling the complainant that others "were doing it as well," and none of the purported conduits had previously made federal contributions and two lived outside of the candidate's district. *Id.* at 1-3.

⁸⁷ See, e.g., Factual & Legal Analysis at 10-11, MUR 5375 (Laidlaw Int'l, Inc., *et al.*) (finding reason to believe, based on a news article detailing an internal audit that found employees of the respondent corporation received bonuses to reimburse contributions, as well as apparent efforts to conceal these facts).

⁸⁸ Factual & Legal Analysis at 1-9, 12-21, MURs 4530, 4531, and 4547 (DNC Services Corp./Democratic Nat'l Comm.). The DNC admitted in its response to have accepted certain foreign national contributions, but the

1 In light of the circumstances presented and the affidavits submitted by the NRA
2 regarding its financial activities during the relevant period, there is not an adequate basis to
3 conclude that Respondents violated the foreign national prohibition, as alleged. Therefore, we
4 recommend that the Commission dismiss the allegations that Torshin and Butina violated
5 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(b) by directly or indirectly making foreign national
6 contributions or donations; dismiss the allegations that Erickson and Bridges, LLC violated
7 11 C.F.R. § 110.20(h) by knowingly providing substantial assistance in the making or receipt of
8 a prohibited foreign national contribution or donation; and dismiss the allegations that the NRA
9 violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting, or
10 receiving a prohibited foreign national contribution or donation in connection with an election.

11 2. Alleged Foreign National Participation in the NRA's Decision-Making
12 Process Regarding its Election-Related Activities

13 There is also little information in the present factual record to infer that Torshin or Butina
14 participated in the NRA's decision-making process regarding its election-related activities. The
15 only support in the Complaint for this allegation is the proximity between Torshin, Butina, and
16 certain NRA members and top-level donors. For instance, Torshin and Butina were apparently
17 acquaintances with NRA board member and former president David Keene who, along with
18 fellow NRA board member and First Vice President Pete Brownell, attended a trip to Russia
19 hosted by Torshin and Butina.

20 The Complaint surmises that, by "infiltrating the NRA and gaining unfettered access to
21 NRA donors and leaders, Mr. Torshin and Ms. Butina would have participated in the NRA's

Commission also made findings with respect to additional suspicious transactions. *Id.* at 14-20. More recently, in MUR 7122, the Commission found reason to believe that a corporation made a foreign national contribution based, in part, on the quoted statement by a company official in a news article, explaining that the company's board (which includes foreign nationals) approved the company's political contributions. Factual & Legal Analysis at 5-6, MUR 7122 (American Pacific Int'l Capital, Inc., et al.).

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1 decision-making process regarding election-related activities — certainly indirectly if not
2 directly.”⁸⁹ But there are no specific facts to indicate that such relationships included an
3 election-related component. Moreover, the NRA submitted an affidavit from the officer in
4 charge of its election-related activities who attests that neither the Respondent foreign nationals
5 nor the NRA officials and other members linked to the Respondent foreign nationals participated
6 in decisions regarding the NRA’s election-related activities.

7 Butina’s Statement of Offense supporting her plea agreement, as well as the additional
8 public filings by the United States Attorney for the District of Columbia, raise serious questions
9 about Butina’s involvement with the NRA.⁹⁰ That document explains that Butina’s contacts with
10 U.S. persons were not only to further gun rights, but also to advance the interests of the Russian
11 Federation by establishing unofficial lines of communication between Russia and Americans
12 with influence over U.S. politics.⁹¹ Nevertheless, none of the public filings indicate that Butina
13 leveraged her NRA contacts to participate in the group’s decision-making process or, more
14 specifically, participated in the group’s decision-making process with respect to election-related
15 activities. While that absence of information does not disprove the possibility that Butina or her
16 conspirators sought to influence U.S. elections through the NRA, the public criminal filings
17 nonetheless do not present a sufficient factual nexus to federal campaign finance law necessary
18 to justify a finding of reason to believe on the record before the Commission.

⁸⁹ Compl. at 8.

⁹⁰ Statement of Offense, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018); see Plea Agreement, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018); Affidavit in Support of an Application for a Criminal Complaint ¶ 18, *United States v. Butina*, 1:18-cr-00218 (D.D.C. July 14, 2018); United States’ Memorandum in Aid of Sentencing, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Apr. 19, 2019).

⁹¹ Statement of Offense at 2, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018).

1 Accordingly, in light of the circumstances and the affidavit submitted by the NRA, there
2 is not an adequate basis to conclude that Respondents violated the foreign national prohibition,
3 as alleged. Therefore, we recommend that the Commission dismiss the allegations that Torshin
4 and Butina violated 11 C.F.R. § 110.20(i) by directly or indirectly participating in the NRA's
5 decision-making process regarding its election-related activities.

6 **IV. RECOMMENDATIONS**

- 7 1. Dismiss the allegations that Alexander Torshin and Maria Butina violated
8 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(b) by directly or indirectly making
9 foreign national contributions or donations;
- 10 2. Dismiss the allegations that Paul Erickson and Bridges, LLC violated 11 C.F.R.
11 § 110.20(h) by knowingly providing substantial assistance in the making or
12 receipt of a prohibited foreign national contribution or donation;
- 13 3. Dismiss the allegation that the National Rifle Association of America violated
14 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g) by knowingly soliciting,
15 accepting, or receiving a prohibited foreign national contribution or donation in
16 connection with an election;
- 17 4. Dismiss the allegations that Alexander Torshin and Maria Butina violated
18 11 C.F.R. § 110.20(i) by directly or indirectly participating in the National Rifle
19 Associate of America's decision-making process regarding its 2016 election-
20 related activities;
- 21 5. Approve the attached Factual and Legal Analysis;
- 22 6. Approve the appropriate letters; and

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1 **FEDERAL ELECTION COMMISSION**
2 **FACTUAL AND LEGAL ANALYSIS**

3
4 Respondents: National Rifle Association of America MUR 7314
5 National Rifle Association Institute for
6 Legislative Action
7 Alexander Torshin
8 Maria Butina
9 Paul Erickson
10 Bridges, LLC
11

12 **I. INTRODUCTION**

13 This matter was generated by a Complaint filed with the Federal Election Commission by
14 the American Democracy Legal Fund, alleging that Alexander Torshin, Maria Butina, and Paul
15 Erickson engaged in a scheme to funnel millions of dollars in foreign money to the National
16 Rifle Association of America ("NRA") and the National Rifle Association Institute for
17 Legislative Action ("NRA-ILA") for the purpose of financing independent expenditures in
18 violation of the Federal Election Campaign Act of 1971, as amended (the "Act").¹ In addition,
19 the Complaint alleges that Torshin and Butina, both of whom are foreign nationals, illegally
20 participated in the decision-making process of the NRA regarding its election-related activities.
21 Finally, the Complaint alleges that the NRA is liable for knowingly accepting the foreign money
22 used to finance its election-related activities, and for allowing Torshin and Butina to participate
23 in the NRA's decision-making process regarding its election-related activities.

24 Respondents deny the allegations.² They argue that the Complaint is speculative and
25 does not point to any solid pieces of evidence that the alleged funneling and participation

¹ As described below, the NRA-ILA is a division within the NRA and not a separate corporate entity. Thus, unless otherwise indicated, any reference to the "NRA" includes the NRA-ILA. Moreover, because the NRA-ILA is not a distinct entity, the Commission's findings with respect to the "NRA" encompass the NRA-ILA.

² The NRA submitted an initial response as well as two supplements, and Butina and Bridges, LLC jointly submitted an initial response and a short supplement. Torshin and Erickson did not file any response.

1 occurred. The NRA submitted the results of an internal investigation, as well as an affidavit
2 signed by the officer in charge of the NRA's election-related activities who claims there was no
3 foreign participation with respect to the 2016 election. The NRA claims to have accepted only
4 one donation from Butina in the form of a \$520 purchase of jewelry at an NRA fundraising
5 auction in 2015, and to have collected \$1,000 from Torshin as payment for his lifetime NRA
6 membership dues in 2012. In addition, the NRA attests that it did not receive any funds from
7 Bridges, LLC, the domestic entity alleged to have funneled money from the Respondent foreign
8 nationals to the NRA.

9 Although the activities at issue may have resulted in potential violations of statutes
10 outside the Commission's jurisdiction, as reflected by the criminal complaint brought by the
11 United States Attorney for the District of Columbia against Butina,³ the available information
12 does not support a finding of reason to believe with respect to the alleged violations of federal
13 campaign finance law. The allegations in the Complaint are premised on a vague news article
14 reporting that the Federal Bureau of Investigation ("FBI") is investigating whether Torshin may
15 have funneled money to the NRA, but without providing any specifics. The Complaint
16 assembles an assortment of circumstantial information showing that Butina and Torshin had
17 relationships with prominent NRA members, that Torshin reportedly made efforts to contact
18 2016 presidential candidate Donald J. Trump, and that a significant portion of the NRA's
19 election-related spending was not attributed to disclosed contributors, among other things. In

³ On July 14, 2018, the United States Attorney for the District of Columbia filed a criminal complaint against Butina for conspiracy to act as an agent of a foreign government. *Infra* notes 43-45 and accompanying text. On December 6, 2018, Butina pled guilty to the charges and admitted that her objective was to establish unofficial lines of communication with Americans having power and influence over United States politics. On February 5, 2019, Erickson was indicted by the United States Attorney for the District of South Dakota in connection with an alleged investment scheme apparently unrelated to the activities at issue in this matter. *Infra* note 47.

1 consideration of the Complaint and the available record, there is insufficient information in the
2 record before the Commission to support a reasonable inference that Torshin, Butina, Erickson,
3 or Bridges, LLC may have violated the Act's foreign national prohibition.

4 Under these circumstances, the Commission dismisses the allegations that Torshin and
5 Butina violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(b) by directly or indirectly making
6 foreign national contributions or donations; dismisses the allegations that Erickson and Bridges,
7 LLC violated 11 C.F.R. § 110.20(h) by knowingly providing substantial assistance in the making
8 or receipt of a prohibited foreign national contribution or donation; and dismisses the allegation
9 that the NRA violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g) by knowingly soliciting,
10 accepting, or receiving a prohibited foreign national contribution or donation in connection with
11 an election. In addition, although Torshin and Butina appear to have purposefully developed
12 significant contacts with top NRA officials, the alleged facts fail to support a reasonable
13 inference that they directly or indirectly participated in the NRA's decision-making process
14 regarding its election-related activities. The Commission therefore dismisses the allegations that
15 Torshin and Butina violated 11 C.F.R. § 110.20(i).

16 II. FACTUAL BACKGROUND

17 A. NRA

18 1. Structure

19 The NRA is a nonprofit corporation organized under section 501(c)(4) of the Internal
20 Revenue Code, self-described as "a major political force and as America's foremost defender of
21 Second Amendment rights."⁴ During the 2016 election cycle, David Keene (a former president

⁴ Compl. at 2 (Jan. 24, 2018); *id.*, Ex. A (NRA, 2015 IRS Form 990); NRA | ABOUT THE NRA, <https://home.nra.org/about-the-nra> (cited by Compl. at 2) (accessed Apr. 16, 2019); NRA Resp. at 2 (Mar. 19, 2018).

1 of the NRA) and Pete Brownell were NRA board members.⁵ Brownell, during that time period,
2 also served as Second Vice President and then as First Vice President.⁶

3 The NRA-ILA is the division within the NRA “primarily responsible for the NRA’s . . .
4 legislative and political activities.”⁷ The NRA Political Victory Fund (“NRA-PVF”) is the
5 NRA’s separate segregated fund registered as a political committee.⁸ The NRA represents that,
6 under its *de facto* policy regarding election-related activities, “decisions concerning intervention
7 in federal, state, or local elections . . . normally are made and executed by ILA and/or PVF.”⁹
8 The process is “carried out by NRA-ILA Executive Director Chris Cox (who is also the
9 chairman of NRA-PVF) and the trustees of NRA-PVF as well as the NRA-ILA professional
10 staff, in consultation with NRA Executive President Wayne LaPierre.”¹⁰ All of those people are
11 U.S. citizens.¹¹ The NRA represents that its bylaws do not grant individual board members, the
12 president, or vice presidents excluding the Executive Vice President, any formal role in election-
13 related decisions.¹² However, NRA leadership “may sometimes provide their personal input on
14 such matters.”¹³

5 NRA Resp. at 2; *id.*, Ex. C ¶ 10 (Affidavit of Chris Cox, Executive Director of the NRA-ILA).

6 Cox Aff. ¶ 10.

7 NRA Resp. at 2; *see* Cox Aff. ¶¶ 1, 3; Compl., Ex. A at 2 (NRA, 2015 IRS Form 990).

8 NRA Resp. at 2; Cox Aff. ¶ 4; NRA-PVF, Statement of Organization (Sept. 5, 2018).

9 Cox Aff. ¶ 5.

10 NRA Resp. at 4; *see* Cox Aff. ¶ 6.

11 NRA Resp. at 4.

12 Cox Aff. ¶ 8. The NRA did not attach the bylaws (or relevant portions thereof) to its Response.

13 NRA Resp. at 4.

1 2. Political Activities of the NRA in Connection With the 2016 Election

2 During the 2016 election cycle, the NRA, NRA-ILA, and NRA-PVF reported spending
3 \$54.4 million in connection with federal elections, according to filings with the Commission, as
4 compared to the group's reported spending of \$19.8 million during the 2012 election cycle.¹⁴
5 The Complaint points to this increase and specifically focuses on \$33.3 million the NRA and
6 NRA-ILA reported spending during the 2016 cycle for independent expenditures.¹⁵ The NRA is
7 a 501(c)(4) and did not publicly disclose its donors with respect to this spending.¹⁶ The
8 Complaint argues that the lack of disclosure is "problematic" and provides the "opportunit[y] to
9 funnel foreign funds."¹⁷

10 **B. Connections Between the NRA and Russian Foreign Nationals**

11 Alexander Torshin, a Russian national who formerly served as a member of the
12 Federation Council of Russia, which is the upper house of the Russian legislature, and as Deputy
13 Governor of Russia's Central Bank, is a lifetime NRA member and is reportedly "known for his

¹⁴ NRA Outside Spending Summary 2012, 2016, OPENSECRETS.ORG, available at [https://www.opensecrets.org/outsidespending/detail.php?cycle=\[2012/2016\]&cmte=National+Rifle+Assn](https://www.opensecrets.org/outsidespending/detail.php?cycle=[2012/2016]&cmte=National+Rifle+Assn) (accessed Apr. 12, 2019) (cited by Compl. at 2 n.6). In 2016, the NRA spent a combined \$31.2 million in direct support of Trump and in opposition to Trump's general election opponent, Hillary R. Clinton. *Id.* The figures cited by the Complaint include spending for independent expenditures and communication costs, but apparently do not include contributions made by the NRA-PVF to candidates and political committees.

¹⁵ NRA Institute for Legislative Action Outside Spending Summary 2016, OPENSECRETS.ORG, available at <https://www.opensecrets.org/outsidespending/detail.php?cmte=C90013301&cycle=2016> (accessed Apr. 18, 2019); Compl. at 2, 7; see also Resp. at 2 (confirming the \$33.3 million figure).

¹⁶ Compl. at 2 (citing to General Instructions for Schedule B, Form 990).

¹⁷ *Id.* at 7-8. The activities in this matter pre-date the opinion by the District Court for the District of Columbia in *CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018). See Press Release, *FEC Provides Guidance Following U.S. District Court Decision in CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018) (Oct. 4, 2018), available at <https://www.fec.gov/updates/fec-provides-guidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/> (explaining the Commission's approach to reporting of independent expenditures by persons other than political committees made on or after September 18, 2018).

1 close relationships with both Russian President Vladimir Putin and the NRA.”¹⁸ On April 6,
2 2018, Torshin’s name was included on a list of foreign nationals sanctioned by the United States
3 Department of the Treasury, “in response to the totality of the Russian government’s ongoing
4 and increasingly brazen pattern of malign activity around the world,” according to a department
5 official.¹⁹ Torshin, based on a review of his social media postings, has attended every NRA
6 convention between 2012 and 2016, and personally met with every person who has been
7 president of the NRA during that period of time.²⁰

8 Maria Butina, a Russian national who apparently traveled to the United States during the
9 2016 election cycle and enrolled in an American university, is also a member of the NRA and
10 attended NRA meetings or events in the United States and Russia.²¹ Butina has been described
11 in media reports as Torshin’s “protégé.”²² Together, Torshin and Butina created and operated a
12 gun rights group similar to the NRA in Russia called the Right to Bear Arms.²³

¹⁸ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, MCCLATCHY, Jan. 18, 2018 (cited by Compl. at 2 n.5).

¹⁹ Press Release, U.S. Dep’t of the Treasury, *Treasury Designates Russian Oligarchs, Officials, and Entities in Response to Worldwide Malign Activity*, Apr. 6, 2018; Gordon, et al., *Sanctioned Russians Include Dossier Figure and Banker Linked to NRA*, MCCLATCHY, Apr. 6, 2018 (cited by Supp. Compl. at 4 n.15 (June 22, 2018)); see Cristina Maza, *Trump Sanctions Russian Oligarchs, Including Men Linked to Russia Investigation*, NEWSWEEK, Apr. 6, 2018 (cited by Supp. Compl. at 4 n.14).

²⁰ Tim Mak, *Depth of Russian Politician’s Cultivation of NRA Ties Revealed*, NPR, Mar. 1, 2018 (cited by Compl. at 3 n.6); see Rosalind Helderman & Tom Hamburger, *Guns and Religion: How American Conservatives Grew Closer to Putin’s Russia*, WASH. POST, Apr. 30, 2017 (cited by Compl. at 3 n.9); NRA Resp. at 2.

²¹ Butina & Bridges, LLC Joint Resp. at 1 (Mar. 12, 2018); NRA Resp. at 2.

²² E.g., Michelle Goldberg, *Is This the Collusion We Were Waiting For?*, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12).

²³ Nicholas Fandos, *Operative Offered Trump Campaign ‘Kremlin Connection’ Using NRA Ties*, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14); Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12); see Butina & Bridges, LLC Resp. at 1 (Mar. 12, 2018); NRA Resp. at 2.

1 Paul Erickson, identified as a “conservative operative” and “veteran GOP consultant,”
2 reportedly developed a relationship with Butina through the NRA and Right to Bear Arms.²⁴
3 According to at least one news source, Erickson may have served as an adviser to the Trump
4 transition team.²⁵ During the 2016 election cycle, according to the NRA, “Erickson had no
5 formal role” with the NRA and was not an official NRA member because his membership had
6 expired.²⁶ Previously, Erickson had “occasionally performed consulting and event planning
7 services for the NRA,” but the NRA states that his last invoice dates back to April 2014 for
8 expenses incurred in 2013.²⁷ Butina and Erickson, in 2016, incorporated Bridges, LLC.²⁸
9 Erickson reportedly stated that the LLC was for Butina’s tuition.²⁹ In her Response, Butina
10 maintains that the LLC was “set up to pay for certain educational expenses.”³⁰ The Complaint
11 suggests this is “an unusual way to use an LLC,” and alleges that Bridges, LLC was actually
12 created to function as an intermediary to funnel money from Torshin or Butina to the NRA.³¹

²⁴ Fandos, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14); Michael Isikoff, *White House Pulled Out of Meet and Greet with “Conservatives’ Favorite Russian” Over Suspected Mob Ties*, YAHOO NEWS, Apr. 2, 2017 (cited by Compl. at 3 n.12); Seth Tupper, *Timeline: The Life of Paul Erickson*, RAPID CITY J., Feb. 11, 2018 (cited by NRA Resp. at 10 n.46).

²⁵ Isikoff, YAHOO NEWS, Apr. 2, 2017 (cited by Compl. at 3 n.12).

²⁶ NRA Resp. at 4.

²⁷ *Id.*

²⁸ Bridges, LLC, Certification of Organization (S.D. Sec. of State) (Feb. 10, 2016); Compl. at 3.

²⁹ Peter Stone & Greg Gordon, *Lawyer Who Worked for NRA Said to have had Concerns About Group’s Russia Ties*, MCCLATCHY, Mar. 15, 2018 (cited by Supp. Compl. at 3 n.5); see Butina & Bridges, LLC Resp. at 1.

³⁰ Butina & Bridges, LLC Resp. at 1. *But see* Sentencing Memorandum on Behalf of Maria Butina at 8, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Apr. 19, 2019) (describing Bridges, LLC as a “single-member” LLC so named because of Butina’s “wish to be a bridge between Russia and America,” and reporting that through Bridges, LLC, Butina “scored a consulting contract with the Outdoor Channel to develop a television show in Russia featuring President Putin and his love of the outdoors,” but that the project quickly ended when Butina could not produce Putin).

³¹ Compl. at 8; see Stone & Gordon, MCCLATCHY, Mar. 15, 2018 (cited by Supp. Compl. at 3 n.5); Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12). The Complaint, pointing to money laundering allegations against Torshin by Spanish officials, asserts that “this would not be the first time Mr. Torshin or those associated

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1 In 2015, Torshin and Butina hosted a “luxurious trip to Russia” for NRA leaders and top-
2 level donors.³² Among those in attendance were Keene and Brownell who, as noted above, were
3 NRA board members at the time of the Russia trip.³³ The NRA, in its Response, acknowledges
4 that Keene was “acquainted” with both Torshin and Butina, and that Keene attended Right to
5 Bear Arms events in Russia, including being invited to speak at an event in 2013.³⁴ Moreover, at
6 the 2016 NRA annual convention in Louisville, Kentucky — at which the NRA endorsed Trump
7 for president — Torshin and Butina were members of Keene’s dinner party.³⁵ According to a
8 statement provided by the NRA’s Chief Financial Officer, Keene’s dinner party shared a brief
9 interaction with Donald Trump, Jr., who attended the convention.³⁶ The Complaint asserts that
10 Torshin and Butina, by “gaining unfettered access to NRA donors and leaders” participated in
11 the NRA’s decision-making process regarding its election-related activities, “certainly indirectly
12 if not directly.”³⁷

with him were accused of funneling money illegally.” Compl. at 8 (citing Esteban Duarte, *et al.*, *Mobster or Central Banker? Spanish Cops Allege This Russian Both*, BLOOMBERG NEWS, Aug. 9, 2016).

³² Compl. at 3 (citing Goldberg, N.Y. TIMES, Jan. 19, 2018; Helderman & Hamburger, WASH. POST, Apr. 30, 2017. The Complaint also cites to news articles reporting contacts between NRA officials and other foreign nationals linked with the Russian government. Supp. Compl. at 2 (citing Allegra Kirkland, *NRA Still Not Talking Amid New Reports of Contacts with Putin Allies*, TALKING POINTS MEMO, June 11, 2018; Peter Stone & Greg Gordon, *Web of Elite Russians Met with NRA Execs During 2016 Campaign*, MCCLATCHY, June 11, 2018). The other foreign nationals include Dmitry Rogozin, the deputy prime minister in charge of Russia’s defense industry.

³³ NRA Resp. at 3; *see also id.* at 3 n.9 (“Other than Keene and Brownell, none of [those attending the Russia trip] were directors, officers, employees, contractors, or agents of the NRA at the time of the visit. Some were and are substantial donors to the NRA who also have been active in supporting NRA fundraising efforts, and who have been given honorific titles as a result of those activities.”).

³⁴ *Id.* at 2-3; *see also id.* at 3 (explaining that Keene was also an “acquaintance” of Erickson).

³⁵ *Id.* at 3; *id.*, Ex. A ¶¶ 17-18 (Affidavit of Wilson H. Phillips, Jr., Treasurer and Chief Financial Officer of the NRA); *see also* NRA Second Supp. Resp. at 7 (July 27, 2018) (stating that it is “regrettable” Torshin and Butina ever attended NRA events or met with NRA officers).

³⁶ Phillips, Jr. Aff. ¶ 19.

³⁷ Compl. at 8.

1 In the lead-up to the 2016 presidential election and shortly thereafter, Erikson and
2 Torshin reportedly made attempts to contact Trump in order to advance Russian interests. In
3 May 2016, Erickson reportedly sent an email to an adviser to the Trump campaign, that Russia
4 was “quietly but actively seeking a dialogue with the U.S.,” and planned to use the NRA’s 2016
5 annual convention in Louisville, Kentucky to make “first contact.”³⁸ In June 2016, another
6 conservative activist reportedly sent an email to the same Trump campaign adviser, proposing a
7 backchannel meeting between Torshin and Trump.³⁹ The available news reports do not indicate
8 how the Trump campaign responded to the first request, but report that the campaign specifically
9 rebuffed the second request.⁴⁰

10 In February 2017, Torshin was scheduled to attend a “meet and greet” with President
11 Trump at the National Prayer Breakfast, but it was reportedly canceled following the discovery
12 of allegations by the Spanish Civil Guard that Torshin had been involved in a money laundering
13 conspiracy.⁴¹ The Complaint highlights these instances, in addition to the sanctions against
14 Torshin by the Department of the Treasury mentioned above, as evidence that Torshin was
15 interested in the outcome of the 2016 election and in supporting Trump for president.⁴²

³⁸ Goldberg, N.Y. TIMES, Jan. 19, 2018 (cited by Compl. at 3 n.12); Fandos, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14). It is not entirely clear, from the information in the news articles, whether Erickson allegedly sent the emails on behalf of Torshin or some other representative of the Russian government.

³⁹ Sam Thielman, *NRA's Ties to Putin Allies go Back Years*, TALKING POINTS MEMO, Jan. 19, 2018 (cited by Compl. at 4 n.20).

⁴⁰ Compl. at 4; see Fandos, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14); Thielman, TALKING POINTS MEMO (cited by Compl. at 4 n.20).

⁴¹ Isikoff, YAHOO NEWS, Apr. 2, 2017 (cited by Compl. at 3 n.12); see Duarte, et al., BLOOMBERG NEWS, Aug. 9, 2016 (cited by Compl. at 4 n.19). A White House official reportedly stated that the meeting had never been confirmed. Helderman & Hamburger, WASH. POST, Apr. 30, 2017 (cited by Compl. at 3 n.9).

⁴² Compl. at 7; Supp. Compl. at 7.

1 In December 2018, Butina pled guilty to conspiracy to violate 18 U.S.C. § 951, which
2 requires certain agents of foreign governments operating within the United States to notify the
3 United States Attorney General.⁴³ In the Statement of the Offense, Butina admitted taking orders
4 from a “Russian Official” and that her primary objective was to “establish unofficial lines of
5 communication with Americans having power and influence over U.S. politics.”⁴⁴ Butina
6 explained that “Gun Rights Organization” had “influence over Political Party #1,” and by
7 attending its conferences, in addition to other activities, she had “laid the groundwork for an
8 unofficial channel of communication with the next U.S. administration.”⁴⁵ Butina admitted that
9 a trip to Russia by powerful “Gun Rights Organization” members in December 2015 was part of
10 her operation, and that she advised a Russian Official: “We should let them express their
11 gratitude now, we will put pressure on them quietly later.”⁴⁶ Neither the plea documents nor the
12 criminal complaint mention any potential violations of federal campaign finance law or
13 otherwise refer to a scheme to funnel donations.⁴⁷

⁴³ Plea Agreement at 1, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018); see also Criminal Complaint, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. July 14, 2018). The documents filed by the United States Attorney for the District of Columbia use an alternate spelling of Maria (Butina apparently uses both spellings). On February 5, 2019, Erickson was charged with wire fraud and money laundering by the United States Attorney for the District of South Dakota. *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Feb. 5, 2019). The facts of that case appear to be unrelated to the 2016 election and the instant matter.

⁴⁴ Statement of Offense at 2, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018) (document forming the factual basis of Butina’s guilty plea).

⁴⁵ *Id.* at 2-3.

⁴⁶ *Id.* at 3-4. Butina’s American contact, identified as “U.S. Person 1” provided her with background information on the invitees. *Id.* at 3.

⁴⁷ *But see* Affidavit in Support of an Application for a Criminal Complaint ¶ 18, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. July 14, 2018) (quoting an email that Butina sent to an associate identifying “Gun Rights Organization” as the “largest sponsor of the elections to the US congress, as well as a sponsor of The CPAC conference and other events”).

1 **C. Inquiries into the NRA's Contacts with Russians**

2 The allegations in the Complaint are based primarily on a January 18, 2018, *McClatchy*
3 news article, which reported that the "FBI is investigating whether a top Russian banker with ties
4 to the Kremlin [Torshin] illegally funneled money to the [NRA] to help Donald Trump win the
5 presidency."⁴⁸ However, the article noted that it is "unclear how long the Torshin inquiry has
6 been ongoing," and the "extent to which the FBI has evidence of money flowing from Torshin to
7 the NRA, or of the NRA's participation in the transfer of funds, could not be learned."⁴⁹

8 At a public hearing before the House Intelligence Committee, Glenn Simpson, a former
9 investigative journalist and co-founder of Fusion GPS, referring to Torshin and Butina, testified
10 that "it appears the Russians . . . infiltrated the NRA."⁵⁰ Adam Schiff, then Ranking Member of
11 the House Intelligence Committee, reportedly stated that: "The issue of whether there was an
12 effort to . . . provide funding through the NRA, has been an issue of concern for the committee,
13 and something we've endeavored to look into."⁵¹

14 A report with preliminary findings on Russian activities in the 2016 election, published
15 by Diane Feinstein, Ranking Member of the Senate Judiciary Committee, along with Minority
16 members of the committee, states: "The Kremlin may also have used the NRA to secretly fund
17 Mr. Trump's Campaign. The extent of Russia's use of the NRA as an avenue for connecting

⁴⁸ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, *MCCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5); see also Lois Beckett, *FBI Investigates Whether Russia Banker Used NRA to Fund Trump Campaign – Report*, *THE GUARDIAN*, Jan. 18, 2018 (cited by Compl. at 3 n.8) (reporting on the allegations presented by the *McClatchy* article).

⁴⁹ Stone & Gordon, *MCCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5).

⁵⁰ U.S. House of Representatives Permanent Select Committee on Intelligence, Interview of Glenn Simpson at 142-43 (Nov. 14, 2017), available at <http://docs.house.gov/meetings/IG/IG00/20180118/106796/HMTG-115-IG00-20180118-SD002.pdf> (stating that "we spent a lot of time investigating Mr. Torshin"). Simpson's testimony regarding Torshin and Butina does not provide any specific information underlying the basis for his conclusions.

⁵¹ Goldberg, *N.Y. TIMES*, Jan. 19, 2018 (cited by Compl. at 3 n.12).

1 with and potentially supporting the Trump campaign needs examination.”⁵² The only evidence
2 cited by the report with respect to this claim is the same *McClatchy* news article on which the
3 Complaint relies.⁵³

4 According to unidentified sources, Cleta Mitchell, an attorney and former NRA board
5 member, reportedly expressed “concerns” regarding the NRA’s ties with Russia and “possible
6 involvement in channeling Russian funds into the 2016 election[] to help Donald Trump.”⁵⁴ The
7 news article at issue contains a quote from Mitchell denying ever having such concerns, and she
8 submitted an affidavit to that effect on the record in this matter.⁵⁵ The Complaint cites to the
9 quotation in the article, and the above statements by other third parties, as additional evidence
10 supporting the possible existence of the alleged scheme to funnel money to the NRA.⁵⁶

11 On May 3, 2018, Ranking Member of the Senate Finance Committee Ron Wyden, who
12 conducted a separate inquiry into the NRA’s alleged links with Torshin, sent his correspondence
13 with the NRA to the Commission, specifically referencing this matter, which has been reported
14 by the media.⁵⁷ The materials, which are publicly available, include letters with questions about
15 the NRA’s election-related activities and the NRA’s responses to those letters. In the NRA’s

⁵² Dianne Feinstein, et al., *Preliminary Findings About Trump Campaign’s Effort to Obtain Incriminating Information on Secretary Clinton from Russia at Trump Tower Meeting* at 21 (May 16, 2018) (cited by Supp. Compl. at 4 n.12).

⁵³ *Id.* at 21 n.128; see NRA Second Supp. Resp. at 2-3.

⁵⁴ Stone & Gordon, *MCCLATCHY*, Mar. 15, 2018 (cited by Supp. Compl. at 3 n.5).

⁵⁵ *Id.*; NRA Second Supp. Resp., Ex. A ¶¶ 9-11 (Affidavit of Cleta Mitchell).

⁵⁶ See Compl. 7-8; Supp. Compl. at 8.

⁵⁷ Letter from Ron Wyden, Ranking Member of the Senate Finance Committee, to Caroline C. Hunter, FEC, Chair, Ellen L. Weintraub, FEC, Vice Chair (May 3, 2018) (explaining that, in February of 2018, Wyden “initiated an inquiry into the National Rifle Association’s (NRA’s) campaign finance practices following press reports that raised questions about the organization’s relationship with certain Russian actors”); see Josh Meyer, *FEC Probes Whether NRA Got Illegal Russian Donations*, POLITICO, Mar. 16, 2018. Following Butina’s criminal complaint, Sen. Wyden sent the Commission a follow-up letter, urging it to issue a decision on whether to investigate. Letter from Ranking Member Wyden to Chair Hunter and Vice Chair Weintraub (July 31, 2018).

1 initial response to Sen. Wyden’s inquiry, on February 15, 2018, it stated that there “has been no
2 contact between the FBI and the NRA,” and asserted that the author of the *McClatchy* article told
3 the NRA that only Torshin was under investigation by the FBI.⁵⁸

4 **D. NRA’s Internal Investigation**

5 **1. Financial Activities**

6 The NRA submitted the results of an internal review of its financial activities, supported
7 by affidavits from the Treasurer/Chief Financial Officer of the NRA and Fiscal Officer of the
8 NRA-ILA, which maintains and controls a separate account.⁵⁹ The NRA states that it reviewed
9 all donors whose donations to the NRA during calendar year 2015 or 2016 aggregated \$5,000 or
10 more, and that the NRA-ILA reviewed all donors whose donations to the NRA-ILA during
11 calendar year 2015 or 2016 aggregated \$1,000 or more.⁶⁰ According to the NRA, none of the
12 examined donors listed an address outside the United States, and there was no record or
13 recollection of any such donation being made via a foreign check or wire transfer drawn on a
14 foreign bank.⁶¹ Further, the NRA states that NRA and NRA-ILA records indicate there was no
15 donation in any amount from Butina, Torshin, Erickson, Bridges, LLC, the Central Bank of
16 Russia, or Dmitry Rogozin (another Russian apparently linked with the NRA), with one
17 exception.⁶² In 2015, Butina purchased jewelry for \$520 (not including \$48.10 in taxes) at a

⁵⁸ Letter from John C. Frazer, NRA, Secretary and General Counsel to Ron Wyden, Ranking Member of the Senate Finance Committee (Feb. 15, 2018).

⁵⁹ NRA Resp., Ex. A (Affidavit of Wilson H. Phillips, Jr., Treasurer and Chief Financial Officer of the NRA); Ex. B (Affidavit of Mary Rose Adkins, Fiscal Officer of the NRA-ILA).

⁶⁰ Phillips, Jr. Aff. ¶ 7 (explaining that this amount was chosen “because information is collected and retained on those donors as a routine matter”); Adkins Aff. ¶ 5.

⁶¹ Phillips, Jr. Aff. ¶¶ 9-11; Adkins Aff. ¶¶ 8-10 (explaining that it would be “onerous and time-consuming” to review every donation, but that neither the Fiscal Officer nor her staff have any recollection of a donation being made via a foreign check or wire transfer drawn on a foreign bank).

⁶² Phillips, Jr. Aff. ¶ 12; Adkins Aff. ¶ 12; *see supra* note 32.

1 fundraising auction, which, according to the Response, resulted in a contribution to the NRA's
2 "general fund."⁶³

3 The NRA later submitted a supplement to the initial Response, providing the results of a
4 more in-depth review of its financial records.⁶⁴ The updated results, however, were not
5 accompanied by affidavits. The NRA stated that it expanded its review so that it was no longer
6 limited by dollar thresholds and the time period was extended from January 1, 2015, through
7 March 31, 2018.⁶⁵ The NRA represents that it uncovered an additional donation of \$5 from an
8 "individual who may be a U.S. national living in Russia."⁶⁶ Further, the NRA stated that, during
9 this period, it received an aggregate of \$1,993 in membership dues and magazine subscriptions
10 from approximately 23 NRA members associated with addresses in Russia.⁶⁷ In addition, the
11 NRA explained that Torshin purchased his lifetime NRA membership in 2012 for \$1,000 and
12 made no other donations or contributions.⁶⁸

13 2. Election-Related Activities

14 The NRA also submitted an affidavit from Chris W. Cox, the Executive Director of the
15 NRA-ILA and Chairman of the NRA-PVF.⁶⁹ Cox represented that he is "personally involved in,
16 intimately familiar with, and ultimately responsible for NRA's decision making concerning [its

⁶³ Phillips, Jr. Aff. ¶ 13; NRA Resp. at 9.

⁶⁴ NRA First Supp. Resp. at 1 (Apr. 13, 2018).

⁶⁵ *Id.* The Complaint contends that the NRA "reported inconsistent numbers" regarding foreign donations in its public statements. Supp. Compl. at 5-6, 8-9. But the NRA explains that the figures changed when it expanded the scope of its investigation to remove dollar thresholds, increased the timeframe, and included dues/subscriptions as well as donations. NRA First Supp. Resp. at 1-2; NRA Second Supp. Resp. at 7.

⁶⁶ NRA First Supp. Resp. at 1.

⁶⁷ *Id.* at 1-2.

⁶⁸ *Id.* at 2 n.2.

⁶⁹ NRA Resp., Ex. C (Affidavit of Chris W. Cox).

1 election-related activities].”⁷⁰ He attests that with respect to 2016 elections, “no foreign national
2 participated in” the NRA’s decision-making process.⁷¹ Moreover, Cox states that neither Keene
3 nor Brownell, the two NRA board members with apparent links to Torshin and Butina described
4 above, individually participated in the NRA’s decision-making process and that the NRA board
5 did not formulate any policy regarding 2016 elections.⁷² Finally, Cox attests that none of the
6 NRA members who attended the 2015 trip to Russia organized by Torshin and Butina
7 participated in the NRA’s decision-making process regarding its election-related activities.⁷³

8 III. LEGAL ANALYSIS

9 A. Relevant Law

10 The Act and Commission regulations provide that a foreign national shall not “directly or
11 indirectly” make: a contribution or donation (or an express or implied promise thereof) in
12 connection with any federal, state, or local election; a disbursement for an electioneering
13 communication; or an expenditure, independent expenditure, or disbursement in connection with
14 any federal, state, or local election.⁷⁴ The term “foreign national” includes an individual who is
15 not a citizen of the United States or national of the United States and who is not lawfully
16 admitted for permanent residence, as well as a government of a foreign country.⁷⁵

⁷⁰ *Id.* ¶ 6. Cox explained that these election-related activities include “decisions about which candidates to endorse or support, and decisions concerning the making of expenditures and disbursements for candidate endorsements, independent expenditures, electioneering communications, express advocacy member communications, non-reportable field operations and Internet advertising, and candidate contributions.” *Id.* ¶ 5.

⁷¹ *Id.* ¶ 7.

⁷² *Id.* ¶¶ 9, 11.

⁷³ *Id.* ¶ 12.

⁷⁴ 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(b), (e)-(f).

⁷⁵ 52 U.S.C. § 30121(b) (citing to 22 U.S.C. § 611(b)); 11 C.F.R. § 110.20(a)(3) (same).

1 No person shall knowingly solicit, accept, or receive a prohibited foreign national
2 contribution or donation.⁷⁶ The term “knowingly” is defined as having “actual knowledge” that
3 the source is a foreign national, or being aware of “facts that would lead a reasonable person to
4 conclude that there is a substantial probability that” or “facts that would lead a reasonable person
5 to inquire whether” the source is a foreign national.⁷⁷

6 Commission regulations provide that no person shall “knowingly provide substantial
7 assistance” in the solicitation, making, acceptance, or receipt of a prohibited foreign national
8 contribution or donation, or the making of a prohibited foreign national expenditure, independent
9 expenditure, or disbursement.⁷⁸ Commission regulations also provide that a foreign national
10 shall not “directly or indirectly participate in the decision-making process of any person . . . with
11 regard to such person’s Federal or non-Federal election-related activities,” such as decisions
12 concerning the making of contributions, donations, expenditures, or disbursements in connection
13 with a federal, state, or local election.”⁷⁹

⁷⁶ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

⁷⁷ 11 C.F.R. § 110.20(a)(4); *see also id.* § 110.20(a)(5) (providing that “pertinent facts” include, but are not limited to, the use of a foreign passport for identification purposes, use of a foreign address, and use of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank).

⁷⁸ 11 C.F.R. § 110.20(h). The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.” Explanation & Justification, Assisting Foreign National Contributions or Donations, 67 Fed. Reg. 66928, 66945 (Nov. 19, 2002). Moreover, substantial assistance “covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” *Id.* at 66946.

⁷⁹ 11 C.F.R. § 110.20(i).

1 **B. There is Insufficient Information to Support a Reasonable Inference that**
2 **Respondents Violated the Foreign National Prohibition**

3 1. Alleged Contributions Made by Torshin and/or Butina

4 There is no specific information in the record before the Commission indicating that the
5 Respondent foreign nationals provided the NRA with funds for the purpose of financing the
6 NRA's independent expenditures or other election-related activities. Though the *McClatchy*
7 news article reports on the FBI's alleged investigation of the existence of a scheme in which
8 Torshin funneled money to the NRA, it describes the scheme in the broadest possible terms. The
9 additional information provided by the Complaint does little to corroborate or provide a
10 sufficient factual basis to infer that the alleged prohibited contributions occurred.

11 The allegations are premised on a news article reporting that the FBI is investigating
12 Torshin for potentially funneling money to the NRA. The article cites to unnamed sources and
13 does not provide specific information, disclaiming that the "extent to which the FBI has evidence
14 of money flowing from Torshin to the NRA, or of the NRA's participation in the transfer of
15 funds, could not be learned."⁸⁰ Other than this news article, which is the only piece of
16 information directly alleging that there was a conspiracy to funnel foreign money to the NRA,
17 the Complaint marshals a variety of circumstantial evidence, *e.g.*, "ties" between Torshin,
18 Butina, and the NRA; attempts by Torshin to contact Trump; an increase in NRA political
19 spending in the 2016 cycle; the fact that much of the NRA's political spending was not
20 disclosed; and the creation of an LLC by Butina and Erickson. The Complaint seeks to show
21 that Torshin and Butina may have had a motive to influence the election and develop access to
22 prominent NRA members, among other things. But none of the additional information provided

⁸⁰ Stone & Gordon, *MCCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5).

1 by the Complaint, even when considered as a whole, is indicative or suggestive of a scheme to
2 funnel foreign money to the NRA. Thus, the Complaint and current record do not provide a
3 sufficient factual basis to infer that the alleged violations occurred. Indeed, the Complaint
4 appears to acknowledge that this information, at best, suggests that Torshin and Butina had
5 “opportunities” to violate the foreign national prohibition.⁸¹

6 The NRA submitted the results of an internal review, which did not identify substantial
7 foreign donations. The NRA claims to have accepted one contribution from Butina in the form
8 of a \$520 purchase at an NRA fundraising auction in 2015, and to have collected \$1,000 from
9 Torshin as payment for lifetime membership dues in 2012. And the NRA claims not to have
10 received any donations from Bridges, LLC, the domestic entity alleged by the Complaint to have
11 funneled foreign money to the NRA. The NRA asserts that, as a domestic corporation, it is
12 permitted to accept donations to its general fund from foreign nationals “provided that the money
13 is not solicited or accepted for use in connection with an election, and that no foreign national
14 controls or participates in the making of election-related expenditures.”⁸² As discussed below,
15 the record before the Commission does not indicate that foreign nationals participated in any
16 such decision-making.

17 In prior matters involving alleged conduit contributions or funneling of money through an
18 intermediary, the Commission has required more specific information than what is available on
19 the current record to justify a reason to believe finding.⁸³ In MUR 7091 (Friends of Patrick

⁸¹ Compl. at 8.

⁸² NRA Resp. at 6 (citing Advisory Op. 1992-16 (Nansay Hawaii, Inc.)) (“AO”); *see also* NRA First Supp. Resp at 2 n.3 (citing AO 1981-36 (Japan Business Ass’n of S. Cal.)).

⁸³ The Commission’s stated policy regarding matters at the initial stage in the enforcement process is that a reason to believe finding is appropriate “when a complaint credibly alleges that a significant violation may have

1 Murphy, *et al.*), for instance, the Commission found no reason to believe with respect to
2 allegations of conduit contributions on a record based primarily on relationships between the
3 named contributors and the timing of when the contributions were made.⁸⁴ In MUR 6246
4 (Brennan, *et al.*), the Commission found no reason to believe, despite circumstances that raised
5 questions as to whether a conduit contribution scheme occurred, given “the lack of specific
6 information” that, if true, would support the inference, as well the sworn denials from the
7 respondents and representations of counsel following an internal investigation.⁸⁵ By contrast, in
8 matters where the Commission has found reason to believe, the record involved more specific
9 facts, suggestive of an impermissible conduit scheme.⁸⁶ In MURs 4530, 4531, and 4547 (DNC
10 Services Corp., *et al.*), the Commission found reason to believe with respect to multiple conduit
11 contribution and foreign national contribution allegations, based primarily on detailed analyses
12 of the alleged scheme presented in several news articles.⁸⁷

occurred.” See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007).

⁸⁴ Factual & Legal Analysis at 2, 4, MUR 7091 (Friends of Patrick Murphy, *et al.*). The Commission also found that the applicable statute of limitations had expired on all of the alleged activity. *Id.* at 4.

⁸⁵ Factual & Legal Analysis at 5-7, MUR 6246 (Brennan, *et al.*). The MUR 6246 complaint inferred that Brennan reimbursed contributions because he allegedly offered to reimburse the complainant, allegedly telling the complainant that others “were doing it as well,” and none of the purported conduits had previously made federal contributions and two lived outside of the candidate’s district. *Id.* at 1-3.

⁸⁶ See, e.g., Factual & Legal Analysis at 10-11, MUR 5375 (Laidlaw Int’l, Inc., *et al.*) (finding reason to believe, based on a news article detailing an internal audit that found employees of the respondent corporation received bonuses to reimburse contributions, as well as apparent efforts to conceal these facts).

⁸⁷ Factual & Legal Analysis at 1-9, 12-21, MURs 4530, 4531, and 4547 (DNC Services Corp./Democratic Nat’l Comm.). The DNC admitted in its response to have accepted certain foreign national contributions, but the Commission also made findings with respect to additional suspicious transactions. *Id.* at 14-20. More recently, in MUR 7122, the Commission found reason to believe that a corporation made a foreign national contribution based, in part, on the quoted statement by a company official in a news article, explaining that the company’s board (which includes foreign nationals) approved the company’s political contributions. Factual & Legal Analysis at 5-6, MUR 7122 (American Pacific Int’l Capital, Inc., *et al.*).

1 In light of the circumstances presented and the affidavits submitted by the NRA
2 regarding its financial activities during the relevant period, there is not an adequate basis to
3 conclude that Respondents violated the foreign national prohibition, as alleged. Therefore, the
4 Commission dismisses the allegations that Torshin and Butina violated 52 U.S.C. § 30121(a) and
5 11 C.F.R. § 110.20(b) by directly or indirectly making foreign national contributions or
6 donations; dismisses the allegations that Erickson and Bridges, LLC violated 11 C.F.R.
7 § 110.20(h) by knowingly providing substantial assistance in the making or receipt of a
8 prohibited foreign national contribution or donation; and dismisses the allegations that the NRA
9 violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting, or
10 receiving a prohibited foreign national contribution or donation in connection with an election.

11 2. Alleged Foreign National Participation in the NRA's Decision-Making
12 Process Regarding its Election-Related Activities

13 There is also little information in the present factual record to infer that Torshin or Butina
14 participated in the NRA's decision-making process regarding its election-related activities. The
15 only support in the Complaint for this allegation is the proximity between Torshin, Butina, and
16 certain NRA members and top-level donors. For instance, Torshin and Butina were apparently
17 acquaintances with NRA board member and former president David Keene who, along with
18 fellow NRA board member and First Vice President Pete Brownell, attended a trip to Russia
19 hosted by Torshin and Butina.

20 The Complaint surmises that, by "infiltrating the NRA and gaining unfettered access to
21 NRA donors and leaders, Mr. Torshin and Ms. Butina would have participated in the NRA's
22 decision-making process regarding election-related activities — certainly indirectly if not

1 directly.”⁸⁸ But there are no specific facts to indicate that such relationships included an
2 election-related component. Moreover, the NRA submitted an affidavit from the officer in
3 charge of its election-related activities who attests that neither the Respondent foreign nationals
4 nor the NRA officials and other members linked to the Respondent foreign nationals participated
5 in decisions regarding the NRA’s election-related activities.

6 Butina’s Statement of Offense supporting her plea agreement, as well as the additional
7 public filings by the United States Attorney for the District of Columbia, raise serious questions
8 about Butina’s involvement with the NRA.⁸⁹ That document explains that Butina’s contacts with
9 U.S. persons were not only to further gun rights, but also to advance the interests of the Russian
10 Federation by establishing unofficial lines of communication between Russia and Americans
11 with influence over U.S. politics.⁹⁰ Nevertheless, none of the public filings indicate that Butina
12 leveraged her NRA contacts to participate in the group’s decision-making process or, more
13 specifically, participated in the group’s decision-making process with respect to election-related
14 activities. While that absence of information does not disprove the possibility that Butina or her
15 conspirators sought to influence U.S. elections through the NRA, the public criminal filings
16 nonetheless do not present a sufficient factual nexus to federal campaign finance law necessary
17 to justify a finding of reason to believe on the record before the Commission.

18 Accordingly, in light of the circumstances and the affidavit submitted by the NRA, there
19 is not an adequate basis to conclude that Respondents violated the foreign national prohibition,

⁸⁸ Compl. at 8.

⁸⁹ Statement of Offense, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018); see Plea Agreement, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018); Affidavit in Support of an Application for a Criminal Complaint ¶ 18, *United States v. Butina*, 1:18-cr-00218 (D.D.C. July 14, 2018); United States’ Memorandum in Aid of Sentencing, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Apr. 19, 2019).

⁹⁰ Statement of Offense at 2, *United States v. Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018).

1 as alleged. Therefore, the Commission dismisses the allegations that Torshin and Butina
2 violated 11 C.F.R. § 110.20(i) by directly or indirectly participating in the NRA's decision-
3 making process regarding its election-related activities.

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